

TOWN OF CORNWALL

PLANNING BOARD

May 6, 2013

MEMBERS PRESENT: NEIL NOVESKY, CHAIRMAN
WILLIAM GRABE
RICHIE BISCHOFF
WYNN GOLD

ALSO PRESENT: STEPHEN GABA, ESQ.
PLANNING BOARD ATTORNEY

MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

LESLIE DOTSON
PLANNING BOARD CONSULTANT

GARY VINSON
BUILDING INSPECTOR

ABSENT: KENN BRODMERKEL
LED KLOSKY
MICHAEL LO BLANCO

MEETING AGENDA:

1. VanHeerden Subdivision
2. Eliakostas & Zagon

REGULAR MEETING

MR. NOVESKY: I'd like to call the meeting to order.
We have Mike absent.

MR. VINSON: Yes, he did call.

MR. NOVESKY: Led Klosky we should be very proud, Led's receiving an esteemed academic award at West Point being honored as a member of the faculty at West Point and it's quite nice that he's getting this award. Mark, do you know what the specifics are?

March 6, 2013

MR. EDSALL: I don't

MR. NOVESKY: It's prestige, it's a nice award, don't forget everybody to give him a hand at the next meeting. And Kenn, I think Kenn advised me that he was not going to be in attendance several weeks ago.

MR. VINSON: I've not heard from Kenn.

March 6, 2013

REGULAR ITEMS:

CORRESPONDENCE

MR. NOVESKY: We have some correspondence and Fran I'll send it over to you. I have something from the State Department of Environmental Conservation regarding SEQRA lead agency designation. I have a letter from David Church related to the lead agency coordination request that we sent them. I have something from the New York State Department of Environmental Conservation which I will give to Fran. I've got a county reply regarding mandatory local planning action per New York State Municipal Law 239-1M and that's it I believe for the correspondence. Leslie, unless you have something else?

MS. DOTSON: No, that's pretty much it.

APPROVAL OF MINUTES

MR. NOVESKY: We have approval of the minutes, did everybody receive the March and April minutes that were so well prepared by Fran? You can abstain, Rich, since you weren't at those meetings.

MR. GOLD: I move that we approve the minutes from both March 4 and April 1st.

MR. GRABE: Second it.

ROLL CALL

MR. GRABE	AYE
MR. GOLD	AYE
MR. BISCHOFF	ABSTAIN
MR. NOVESKY	AYE

MR. NOVESKY: We approved the two sets of minutes, great job, Fran. We have no resolutions tonight, I don't believe Gary received the one that we approved last time so that's all set.

MR. VINSON: Yes, you signed that for me, thank you. It's now 7:02 and we have two public hearings scheduled.

March 6, 2013

PUBLIC HEARINGS:

VAN HEERDEN SUBDIVISION #2012-08

MR. NOVESKY: The first is the VanHeerden subdivision. We have such an overwhelming attendance by the public tonight. As we were saying, we have a public hearing VanHeerden subdivision, brief explanation would be great.

MR. HIGGINS: Okay, good evening, David Higgins with Lanc & Tully Engineering. With me tonight is Michele Babcock, who is the attorney for Mrs. VanHeerden. The project that we're presenting before the board is, it's a three lot subdivision. Mrs. VanHeerden owns a parcel of land located at the intersection of Clove Road and Otterkill Road, it's 183 acres plus or minus in size, mostly farmland. The lower portion of the property and the back portion of the property, southern portion, basically are the foothills of the Schunemunk Mountain. The proposal is to subdivide off of the existing private road Tolleson Place which comes off Otterkill Road, subdivide two new single-family home sites. There currently are two existing outparcels that are located, essentially have access off of that Tolleson Place. Right now Tolleson Place is more of a gravel drive than anything and what's proposed is to bring Tolleson Place up to private road standards for the Town of Cornwall to have access for the two new single-family homes and the two existing parcels in the back. Those parcels in the back I should mention basically are just occupied right now by kind of like cabins, like hunting cabin type of thing but two new single-family homes are proposed off Tolleson Place, we have done the soils test for the septic system for those two lots, the town engineer's office witnessing them. Two new lots would be provided water supply by individual drilled wells. So we provided engineering for those two lots. One of the things that should be mentioned is that the property in its entirety right now is under conservation easement from the Orange County Land Trust. The easement allowed the development of 2 five acre lots to Mrs. VanHeerden. And the easement basically stipulated that one of the lots would be located in the northeast corner of the property and the other would be located in the southwest corner of the property, essentially looking at development of that, development of the southwest portion of the property is extremely difficult and largely impractical due to the topographic constraints,

March 6, 2013

difficulties getting to a buildable area there and any soils testing that would be needed for septic systems even just getting up there to do soils testing is very difficult, too steep in the southwestern corner of the site to do that. Mrs. VanHeerden has met, well, we have actually met on her behalf with the Orange County Land Trust to discuss with them modification to the conservation easement to modify that easement and allow instead of requiring that one of those five acre lots be built in the southwestern portion that they both could be built in the northeast portion that's essentially is consolidating the areas of disturbance and leaving this whole area untouched. Also it's within the town's Ridge Line Preservation Overlay and what we need to do to comply with the requirements is to provide a visual EAF addendum, an analysis showing these two new homes that they would not be visible from the public road, in this case, Clove Road. So we had provided an analysis to the town to show that these two houses would not be visible from the road. We have had some meetings over the course of the last probably year to two years with the town's consultants, I believe we've ironed out most of the, if not all of the technical issues and I think that's the summary of the project.

MR. NOVESKY: Thank you very much. Seeing no members of the public, I guess I should say any members of the public wishing to comment on this project, seeing none, hearing none, I will entertain a motion.

MR. GOLD: I move that we close the public hearing.

MR. GRABE: Second it.

ROLL CALL

MR. GRABE	AYE
MR. GOLD	AYE
MR. BISCHOFF	AYE
MR. NOVESKY	AYE

MS. BABCOCK: If I may just real quick?

MR. NOVESKY: Open for discussion.

MS. BABCOCK: Just for the record, I just wanted to submit, I have the affidavit of publication, I have all the certified return receipts, I have the receipt from the Town Clerk saying that the map was filed in her

March 6, 2013

office as well as the affidavit.

MR. NOVESKY: Which I should of asked for at the beginning. Thank you, Michele.

MS. BABCOCK: You're welcome.

MR. NOVESKY: With that, Leslie?

MS. DOTSON: I do have some repeat comments, the second one is regarding zoning compliance with respect to the road frontage, lot one contains a lot more than it's actually indicated on the compliance table as well as does lot two. And I understand that lot one is restricted from taking access from Otterkill Road for zoning purposes it does count and they just kind of shortchanged themselves for lot two on account of what they have on Tolleson Place. In any case, they have more than enough but I did add some comments to this just saying that if you'd like to leave this unchanged I don't care, we like to make sure that the zoning table's accurate but I thought it would be helpful for the compliance lines to just make reference to the covenant restriction and state the restriction on the plan that would keep Orange County Planning Department happy. And I think it would also just be better for the building department and anyone coming down in the future just to know that it's restricted. So that's just my suggestions. Comment three for the environmental considerations, the reason this hasn't been back to you before now is that they did have some homework to do in terms of looking at some endangered species issues which they did, they completed that, Mike Nowicki did a report that accompanies this re-submission, they concluded that mitigations were needed in order to account for the timber rattler. This also agrees with what the County Planning Department had suggested, they've got this addressed on sheet one of the plan. And they also have it mapped on sheet two, they addressed Indiana bat, one roost tree was identified as to remain and they did some other habitat studies and concluded it was not a concern. So I think that the report and project modifications satisfactorily address all of the concerns that DEC and the County Planning Department and this board would have. Comment four relates to the modified application seeking special permits for the houses on the two lots because they're within the Ridge Preservation Overlay, they have already shown that the lots comply with the requirements of the zoning code addressing that such,

March 6, 2013

that no house that could be built that would meet zoning code on either of the lots where they have shown them would be visible. So I think that you would be justified in waiving the special permit. I do note given the time we have you could have modified the hearing for the special permit as well as but since the public notice didn't include that you either have to waive it or something anyway. Referrals, this went to Orange County Planning Department, they issued a local determination and a lot of advisory comments. I think that we have addressed all of their comments and because I'm 90 percent sure that you got them a copy of the easement that they were looking for. In terms of procedure, obviously you have already closed the hearing, I'm suggesting you may be able to direct that approval materials be prepared for next month. But you may want to discuss the issue of timing for completion of the private road because I'm not sure that the board was totally aware of that and in consensus with that.

MR. NOVESKY: Thank you, Leslie. Mark, do you want to address the issue of the private road?

MR. EDSALL: Sure, relative to the application, there was two areas of engineering interests, one being the sanitary system. As Mr. Higgins indicates, the field work was done on that before the final plan is stamped we'll verify all the design information. The second issue was the private road. We asked that a detail be added, it has been added, there's only one minor correction that needs to be made relative to the finished surface course. It's also noted just so the board's aware as per the normal procedure if there's an existing drive we allow for some credit to be given for the stable sub-base that would be for an existing gravel road so that we concluded that it doesn't make much sense to rip it out, create the disturbance and put gravel back where the gravel existed. So that would be a field coordination as to the credit given based on the review and stability so they have included a note to that effect. As far as the timing goes, there are various methods used to guarantee the timing of the road completion, it could be done by note on the plan, I know that in the past there's been performance guarantees worked through I believe the town board for the private road. I have no preference for either as far as the mechanism but clearly before the house obtains a C.O. work must be complete before either one obtains a C.O. and from a safety standpoint, I would suggest at minimum the grading and the sub-base should

March 6, 2013

be such that there would be emergency access to either structure during construction and that's the State Code, so cover both in the state and local code so it would just be the matter of what mechanism the board cares to undertake for the guarantee.

MR. NOVESKY: Thank you. Steve?

MR. GABA: Just mentioning in regard to the road undertaking of course is most preferable because then your concern that the road would be built, if they don't want to go the undertaking route then what you can do is add a note on the plan of course which would be helpful but you want to be sure that it's picked up. The danger is somebody will buy the lots and they won't be accessible. I would think with a private road you'd want a road maintenance agreement anyway as a condition of approval so you can make sure the road's plowed in the winter and such and you can incorporate into that the requirement of the restrictive covenant that that would be done. I don't think I would prefer a C.O., I think there should be no building permits until the road's built to the specs in the plan and that would have to be recorded with the county clerk as a condition of approval. That way, you can be sure if somebody comes along and buys the lots they're going to buy a lot that's accessible from the road.

MR. EDSALL: Only twist on the road maintenance agreement is that two of the lots pre-exist the upgrade, I'm not sure they're going to get participation from the two internal property owners for the existing hunting cottage.

MR. NOVESKY: Do they have the same access road, is that a right-of-way for them?

MR. EDSALL: It's a right-of-way, I don't believe it's recorded but they will be now but it's by use I'm sure.

MR. NOVESKY: What's that for, general assumptions, I mean, they don't have a formal right-of-way?

MR. GABA: I don't know if they have a recorded right-of-way.

MR. NOVESKY: Do they become part of the maintenance agreement?

MR. GABA: Well, no, the point of the road maintenance

March 6, 2013

9

agreement really in this particular instance, well, one of the points of it is to get the restrictive covenant so they can subdivide without actually improving the roadway, the two other lots look, it would be nice if they can bring them on and get those people to contribute, if they can't, that's on them and the road maintenance is going to be on the two lots.

MR. NOVESKY: Thank you, Steve.

MS. BABCOCK: If I may just speak to that issue while we're on that point. I know it goes back a while but back in October of 2012, this issue came up and we were wondering how we should address it. So we had a meeting with Dominic, Mark and Leslie where we all talked because we previously told you that the applicant is subdividing these two lots for her children, that if some day they'd like to build these homes and that she'd like to leave both of the lots in their natural state, if possible if her children decide never to build. So she's not interested in going forward to build a road. Plus we also have the conservation easement that's on the property which of course in order to be in further harmony with that would also make better planning sense that, you know, no work was done on these roads until actually houses are going to be constructed. So at that time based on that meeting, Dominic did follow up with Gary as well as the Town Board attorney and it was suggested that we would enter into a developer's agreement to make sure that everything was all set and basically it said that we'd be relying on the language in the conservation easement as well as the town's overlay districts that the road would not need to be built at this time and that we'd say that the road would have to be constructed prior to issuance of building permit. So that part--

MR. HIGGINS: On our plan it says Certificate of Occupancy.

MS. BABCOCK: The plan would have to be revised, that's what I have, it was October of 2012. And that's what Dominic had called back and said that that's what the town would basically say, he said we'd also be required, a note would be placed in the building department file and that the town board would then need to approve the agreement which agreement would be filed in the Orange County Clerk's office to put any future buyer on notice of this restriction.

March 6, 2013

10

MR. GABA: Well, that's pretty much what I said. What about road maintenance?

MS. BABCOCK: We would have to address that as part of this agreement.

MR. GABA: Okay.

MR. EDSALL: The RMA is going to cover the improved road. I think the two existing homeowners would be, continue to be responsible for the unimproved access to their lots from the private road that's being upgraded. So I think you need to be really clear either by description or by a small eight and a half by 11 plan to make it clear so that these two cottage owners don't believe they're going to have maintenance of the portion from the improved road back to their houses just so you guys don't get stuck with that in the future.

MR. HIGGINS: Right.

MR. NOVESKY: Thank you and thank you, Michele.

MR. GRABE: I tried to follow that they're looking for a lot line change, they're not going to build the houses right now.

MR. EDSALL: Subdivision.

MR. GRABE: Right, subdivision, so not building the houses right now, building the houses in the future. So the road issue now isn't an issue, it's going to be an issue.

MR. NOVESKY: No, it might be.

MR. EDSALL: They can decide to build in a year or 20 years.

MR. GRABE: At that point the road issue is an issue.

MR. NOVESKY: That's going to be on the--

MR. EDSALL: Well establish all the obligation now we'll establish the front timeframe now and once they decide they want a building permit, it would start the ball in motion.

March 6, 2013

MR. GRABE: Apparently, there's conversation back in October of 2012 and that's recorded in Gary's office.

MS. BABCOCK: No, the actual agreement that we would draft Dominic would approve that ultimately would get filed in Gary's office along with a note that basically says that he cannot issue a building permit until the road is built.

MR. VINSON: And that document would be put in the property file for the lot created after they file the subdivision map.

MR. GRABE: I thought that last October there was some memos made on this.

MR. EDSALL: We talked about it and ultimately Dominic crafted the best method of dealing with the issue and then my poor memory, I didn't remember the details or maybe he never told us.

MR. GOLD: Nothing, I've got nothing.

MR. BISCHOFF: No, sir.

MR. NOVESKY: Okay, with that, Steve, would it be reasonable to ask that a resolution be prepared for next month with the covenants or conditions?

MR. GABA: Yes, it will be conditional approval and there will be a number of things that they'll have to do, one of which would be submitting a development agreement in a form acceptable to the town attorney circulated beforehand. We think though that it's a fairly complex resolution, probably the board should read it and meet, actually vote to approve this resolution.

MR. NOVESKY: We'll do that next month. But at least have it prepared.

MS. DOTSON: Are you going to waive the hearing?

MR. NOVESKY: What public hearing are we talking about?

MS. DOTSON: Well, yes, which is why if everybody had been thinking they would have issued the hearing notice, you authorized this hearing in December, at the time, they had no application on file for the special permits for the two houses. I had thought originally

March 6, 2013

12

that they intended to seek special permits for those two houses but they hadn't made it clear by actually specifying that in their application. So you authorized the hearing in December. Once they addressed all the outstanding issues that they had done and were anticipating it would probably happen in February, it took them a little longer I think to address the issues than they had intended, maybe you just forgot about that.

MS. BABCOCK: At the December meeting the board had discussed their intent to waive the public hearing but it came to everyone's attention that we hadn't paid the application fee so therefore you couldn't waive the public hearing. So we paid the application fee so it was our understanding tonight the board would go ahead and waive the special permit public hearing which is why we didn't notice it.

MR. NOVESKY: Additional public hearing.

MR. GOLD: Explain to me what the special permit is for.

MS. DOTSON: For the two houses which are in the Ridge Preservation Overlay District, anything that's built within the Ridge Preservation Overlay District requires a special permit and there's some specific criteria that you need to look at that's set forth in Section 158-25.1 of the code. They have already addressed that which is why I had thought they wanted it but they have to make the actual application.

MR. NOVESKY: Waive the public hearing, Steve, you're okay with that?

MR. GOLD: I move that we waive the public hearing.

MR. GRABE: Second it.

ROLL CALL

MR. GRABE	AYE
MR. GOLD	AYE
MR. BISCHOFF	AYE
MR. NOVESKY	AYE

MS. BABCOCK: Thank you.

March 6, 2013

MR. NOVESKY: Thank you.

MS. BABCOCK: Is the board going to move forward on SEQRA this evening?

MS. DOTSON: We can't, I waited to see how this was going to resolve, I would do that for next month.

MR. NOVESKY: That will be part of the resolution also, we generally do both at the same time.

MS. BABCOCK: Okay, thank you very much.

MR. VINSON: You're planning on coming back next month?

MS. BABCOCK: Guess so.

March 6, 2013

MR. NOVESKY: Next project Eliakostas and Zagon.

MR. EDSALL: This is not a public hearing.

MR. NOVESKY: Project number 2013-01, is someone presenting that?

MR. HIGGINS: Yes, I am.

MR. NOVESKY: You're on this one too?

MR. HIGGINS: Yes. This is a proposed lot line change for two of the lots out of the Chadeayne Woods Estates subdivision. That subdivision was filed in the County Clerk's Office back in December of 2003. I believe all of the lots, 24 lot subdivision, I believe all of the lots have since been developed in accordance with that plan. Essentially, the issue that we have is that Mr. Eliakostas who owns, is the owner of lot 17 had I guess erroneously made improvements to the property that went beyond the property line. Speaking to Mr. Eliakostas it sounded like it was a sort of a simple mistake, some discrepancy over the address of the lot, which lot it was. He had asked the lot lines to be staked out, they came out and apparently the utility company or the whoever had stakes off in the wrong direction. In any event, he had accidentally gone across the property line with several of the improvements, those improvements being a driveway, which pretty much goes right up to the property line and he had built a shed in the back yard and installed a nice cast iron fence. I have some photos if you want to take a look at what it looks like. So there's two photographs, that's the area in question, so essentially, what Mr. Eliakostas is looking to do having realized now that he's crossed over the property line to lot 18 which is Mr. Zagon's property is to try and get an approval for a lot line change so that instead of having to rip out all the improvements, including the fence and landscaping improvements and that sort of thing, try to get a lot line change so that all those things don't have to be undone. One thing I should note is we recently came to the understanding there's a typographical error on the map that we submitted, we indicated that the total acreage of area to be conveyed from lot 18 to lot 17 was .114 acres, apparently, there was a typographical error in that number, the actual acreage to be conveyed is .048 acres. So much smaller than I had originally identified on the plan. So that's all we're looking to

achieve.

MR. NOVESKY: Leslie?

MS. DOTSON: The only problem here, it looks simpler than it actually turns out to be, the zoning has actually changed since this original subdivision was approved and the acreage requirements have substantially increased. So the bottom line is that they're already short and even this tiny little chunk of land winds up increasing the level of non-conformity. So bottom line they need to go to the ZBA, so you don't really have any choice other than to refer this to the ZBA. My other comment is that they were missing a proxy from Zagon but I see in my packet tonight that we did get a proxy.

MR. NOVESKY: No action that we can possibly take?

MS. DOTSON: Other than referring it to the ZBA.

MR. NOVESKY: Seemed so simple.

MS. DOTSON: It seemed that way.

MR. NOVESKY: Can we refer to the ZBA with a recommendation?

MS. DOTSON: Yes.

MR. NOVESKY: Since they sent us a new member. I'm sorry, we can't take any action because it seems simple enough but we can't take any action so motion to refer this to ZBA.

MR. GOLD: Can I ask a question? In looking at this diagram, are there any structures in this area that's being conveyed or is it just a fence?

MR. HIGGINS: I think it's just a fence, there might be a boulder.

MR. GOLD: Wouldn't it be simpler just to move the fence? I'm sorry, it just seems--

MR. NOVESKY: I think it would be pretty expensive.

MS. DOTSON: The pavement is there.

MR. HIGGINS: The driveway goes--

MS. DOTSON: Six inches.

MR. HIGGINS: It's pretty--

MS. DOTSON: It's tight.

MR. HIGGINS: Looks like it's just over the line, I mean, we're hoping, again, I think we were looking at this as a fairly simple matter. Also we weren't aware that the zoning had changed so now basically this means we have additional steps going to the Zoning Board.

MR. NOVESKY: Isn't there a grandfather clause, can't they grandfather the change?

MS. DOTSON: No, no, not really, certain things are grandfathered to certain degrees but this is not so--

MR. NOVESKY: Steve, can't you change the law on this?

MR. GABA: Some codes have a provision saying if you are an existing undersized lot at the time the codes are originally adopted, notwithstanding that you're a small lot as long as you meet all the bulk requirements that you don't need variances. Cornwall has no such provision so--

MR. HIGGINS: Are there any considerations that can be made considering out of the two lots we're taking the smaller of the two and making that larger?

MR. GABA: I have seen boards say that when it's a wash that you're not actually increasing the overall degree of non-conformity between two. I don't think that's the better theory, I think that's probably the minority view. I don't think Cornwall's ever upheld that, pretty consistently they said if you have a--

MR. NOVESKY: In that case, motion to refer.

MR. GOLD: So moved.

MR. GRABE: Second it.

ROLL CALL

MR. GRABE	AYE
MR. GOLD	AYE
MR. BISCHOFF	AYE

March 6, 2013

17

MR. NOVESKY AYE

MR. NOVESKY: Leslie, you'll refer that to the zoning board? Sorry, Dave?

MR. HIGGINS: No, no, understood.

DISCUSSION

CHANGES IN LOCAL LAW

MR. NOVESKY: With that, we'll move on to the next thing. Steve will now give us a dissertation on some changes in local law.

MR. GABA: I'll take these in the order that you have them listed here. Clearing and grading is the same law that was referred to you last August as a matter of fact.

MR. NOVESKY: These are the local laws now, okay.

MR. GABA: That was referred to you last August. What's going on is that the town board is kind of in a serial form trying to implement various provisions of the comprehensive plan so you have local laws coming out in dribs and drabs. This was proposed right off the bat but was shelved. There was a typo the last time around, you sent us a, you sent the town board, excuse me, a letter October 12 pointing out the typo and stating the planning board liked the idea of the notice requirement as had been discussed by the town board, had the requirement that a written notice be sent by first class mail to adjoining property owners and the builder waits five days before such mailing, before issuing a grading permit. As you may recall, this particular law increases the circumstances in which grading and clearing permit might be required.

MR. NOVESKY: I remember the situation.

MR. GABA: The other provision says he has to send notice to adjoining property owners, you were in favor of it last time, I don't think anything's changed.

MR. NOVESKY: Any questions or comments?

MR. GOLD: No.

MR. NOVESKY: I think that's generally you have our consent.

MR. GABA: Oh, this is the same. The next one was preservation of trees and the local law preservation. It says when they're going to be I believe it's any development of land, subdivision or site plan healthy trees over 12 inches in diameter at four feet in height above ground level shall be preserved by the subdivider, I guess it, except that may be waived by

March 6, 2013

the planning board. And in October, you wrote saying that you were in favor of it, except that you preferred the words height of the average person--

MR. NOVESKY: I remember the discussion.

MR. GABA: -- to above the ground, so we went with above the ground and that's I think your position would pretty much be the same on that one.

MR. NOVESKY: I believe so.

MS. DOTSON: We removed references to body parts is the way I described it.

MR. GABA: Yes. I'm trying to get through this without snickering. The next local law is the PRD to HC zoning proposal. And what this is is change in approximately 35 acres of land on Route 9W presently zoned PRD to zone HC, the reason for that is that property along 9W in that area is all zoned HC and the comp plan suggested change be said so we're going forward with what the board intends to go forward with that. I don't know what your feelings are but--

MR. NOVESKY: Anybody have any feelings about that?

MR. GOLD: I think it's a positive change.

MR. NOVESKY: Bill has no feelings at all, he's numb. Has nothing to do with the access.

MS. DOTSON: Access is the same whatever the property zoning is so it's either is well off or as badly off as it was before but the zoning is more suitable with the surroundings.

MR. GABA: Can we report the planning board's in favor of that proposal?

MR. NOVESKY: Let me ask the planning board. Nobody has any issues, I can report that, thank you, Steve.

MR. GABA: This last one is a little bit complicated. I'll give you an overview and then you can kind of let us know what it is you might have questions about. This is the, it's called Multiple Dwelling Local Law. And what it is it's really divided into two parts, part one deals with some tweaks to the language in the code regarding the allowable number of units of multiple

March 6, 2013

dwellings. Basically, it clarifies that the number of units are based on net developable land. Leslie can walk you through the exact changes but it's really more for clarification than it is change, except one of the clarifications is 11 units per 10,000 square feet where, or bedrooms, excuse me.

MS. DOTSON: Bedrooms.

MR. GABA: Whereas, it was eight under the old code so we're increasing that.

MS. DOTSON: No, actually, the number hasn't changed, it's just dividing by the net, it just clarifies that it's a base number, not an absolute limit. So it's just to clarify that it's a base and the actual final bedroom count per acre and the unit count per acre that may be cited may not be the same as the total potential number. So it can be affected by a lot of other factors so this just clarifies what that figure means or could mean.

MR. GABA: The reason we're saying base instead of maximum is you want to make it's clear that that's just the base, it doesn't mean that you could get an additional number, you may not be able to even get that number, as a matter of fact, might be additional subtractions.

MS. DOTSON: Right.

MR. GABA: So it's just a little tweak to the language, doesn't change the substance of that provision. The other section, Section Two, is a whole new section where we provide for affordable housing in the Town of Cornwall. Now what these are, think of it as a program, someone decides that they want to establish an affordable housing within a residential complex, these are the rules and regulations that you have to abide by, everything from bulk requirements to provision for how it is the units will be made available to people. There's a rating system depending on if you're, for example, local first responder you'd get more credit than if you were someone who didn't live in the town. I believe we based it on Goshen's code and we made a few changes to it to make it a little bit more tailored to the Town of Cornwall. Goshen greatly involves the town board in the oversight of an operation of affordable housing, we divorced that a little bit for the Town of Cornwall because the town board wasn't

interested in really going into the affordable housing business. But this is our first--

MR. NOVESKY: Steve, if I can ask the definition of moderate income is 60 to 100,000 percent of the median income, is that what they're using?

MR. GABA: The section for?

MR. NOVESKY: That would be under sub Part 158.

MR. GABA: I know the county had wanted us to change that definition, I'm trying to find the section.

MR. NOVESKY: Under purpose, says affordable housing one, third page back says affordable housing on the top the town board recognizes a lot of opportunity for individuals of moderate income to buy housing.

MR. GABA: Yeah, I guess that's it.

MR. NOVESKY: So that's to ensure that there will be, so they're adhering to HUD guidelines? I'm wondering why they just didn't reference that.

MS. DOTSON: At this point, we probably need to mention that the County Planning Department had responded on this and just even to back up further, you had looked at this before, in fact, the only thing that had changed on this is that initially when you looked at this it was tracking Goshen's code more exactly and the town board was asked to administer it and the town board simply changed the law to take that out. So that's really the only change from what you looked at before. The county, I don't understand why the county hadn't looked at this before but the county made comments talking about defining moderate income and they recommended using Orange County median income changing it to Orange County median household income to expand the pool of potential applicants.

MR. NOVESKY: My interest in that is that the Orange County median income is significantly different than the Town of Cornwall median income and if you're taking 60 percent of Orange County median income vis-a-vis 60 percent of the Cornwall median income, there's a tremendous--

MS. DOTSON: Yeah, there's a difference and that's what the county was intending to expand the pool somewhat

and that's also consistent with the comments that the County Planning Department had made with respect to the comprehensive plan which this is meaning to implement. So I do see their point, I really wish that they brought this up in November, October when we first had proposed this but I don't, they see a problem with that.

MR. GABA: It's going to have to be changed, the definition is the bottom line.

MR. EDSALL: You may want to make the comparison of what the 60 percent of the county income is versus much of the work force that's referenced for points because most of the people that are listed as getting points are excluded because the numbers don't work.

MR. NOVESKY: Precisely.

MR. EDSALL: What have you accomplished? I think the board's other comment was that they thought it would be beneficial to slip in the word work force housing, work force/affordable because the target isn't just affordable, it's for the work force of the community.

MR. NOVESKY: We had the same question when we discussed last year.

MR. EDSALL: I remember the discussion because I know in the adjoining municipality they used the word work force but I don't know how that fits into the grand scheme.

MR. NOVESKY: Steve, do you recall the Yonkers situation, wasn't there an issue in Yonkers?

MR. GABA: Yeah, they refused to put any affordable housing in.

MR. NOVESKY: Point made that this isn't what we're suggesting but rather if this is directed as a community local law as Mark's saying I think we're thinking in terms of the impact on the community rather than the community impacting on the rest of the county. I think that that might be at least a clarification not a concern but I'm a little confused as to what the basis of the definition of 60 to 100 percent median income is.

MR. EDSALL: If you look at the full time municipal

employees, you look at some of the incomes for district employees, you start looking at some of the people that are listed in Subsection 8, if those salaries make the person ineligible based on the provision earlier in the law for the percentages then you're marketing work force housing to everybody who doesn't live here, that's what I think you're trying to avoid if I'm cutting--

MR. NOVESKY: You're cutting to the chase, that's why you're an engineer and I just, I'm a retired writer so--

MR. EDSALL: I can read between your lines.

MR. GRABE: Is there any federal regulations on the laws that you put in here concerning FHA, things like that?

MR. GABA: Availability for tax credits through affordable housing but we don't need to add that to our local code.

MR. NOVESKY: Which brings back the issue that Mark was pointing out, some developer comes in and decides they're going to market these affordable housing units and impacts on people outside of the town, whereas the people who are teachers in town can't afford to live here because they have income guidelines that exceed the county median percentage income guidelines, had that problem in many communities. Do you understand what I'm saying?

MR. GABA: That's an excellent point. To be perfectly frank, the town didn't have an affordable housing provision in the code. We needed to add an affordable housing provision. And so like I said, we kind of took a first crack at it, the whole work force housing aspect of it really kind of vetting it through, thinking about how you can make this available for people who are local. I don't think we've reached that stage yet but I think these comments will be very helpful to the town board.

MR. NOVESKY: Willingness on the part of the planning board members to participate in any discussions in that regard?

MR. EDSALL: I don't think the target is the person that's got 20 years in the system. The target is one

to 35 year entry level people who can afford to come in and start their job off so you look at those salaries and as long as the 60 to 100 works then I guess it's okay. If it doesn't, then we have to scratch your head and say what would make it work.

MR. NOVESKY: If you can express the planning board's concern about that.

MR. GABA: What I'd like to do because frankly a lot of this just hadn't occurred to me before is put together an e-mail or a memo and I'll circulate it to the board members and boards, town board's going to have a public hearing on this at its regular meeting in eight days or whatever that comes out to and if they can have the comments for the public hearing they're going to have to based on, I don't have to but probably going to close the public hearing and then just redraft the local law to deal with county planning's comments if they can have the planning board's comments or if you're willing to help in the redraft that would be very helpful.

MR. NOVESKY: Sure, well, thank you, Steve.

MS. DOTSON: It may be that if we jack up the cap instead of 60 to 100, more like 60 to 125.

MR. EDSALL: Before you change the numbers just--

MS. DOTSON: No, no, but that's another way of--

MR. EDSALL: It's an easy thing to find out.

MR. NOVESKY: Wouldn't it be funny if they maxed out entry level kindergarten teacher at C.O.H.?

MR. EDSALL: They'd have to move to Montgomery and teach in Cornwall.

MR. NOVESKY: Steve, thank you very much for the excellent presentation. Any questions? Any issues? Time for the famous motion to adjoin. Any other questions, comments? Please put a formal welcome to Richie as the newest member of the esteemed planning board and that he's welcome on board, hopefully he'll join us next month.

MR. BISCHOFF: Thank you.

March 6, 2013

25

MR. NOVESKY: Motion to adjourn?

MR. GOLD: So moved.

MR. GRABE: Second it.

ROLL CALL

MR. GRABE	AYE
MR. GOLD	AYE
MR. BISCHOFF	AYE
MR. NOVESKY	AYE

Respectfully Submitted By:

Frances Roth
Stenographer